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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,778	03/23/2004	Craig M. Thoms	KCX-504-CON (17359.1)	2382

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EXAMINER

BOLLINGER, DAVID H

ART UNIT	PAPER NUMBER
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3653

DATE MAILED: 03/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/806,778		THOMS, CRAIG M.	
	Examiner		Art Unit	
	David H. Bollinger		3653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 through 3, 5 through 10 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Masui (cited by applicant).

See Figures 1, 3 and 4. See also column 2 line 10 through column 3 line 12.

Masui meets the structural limitations of claims 1 through 3, 5 through 10 and 12.

The fact the top sheet is only partially withdrawal and detached from the removable panel is merely an intended manner of use for the device and does not represent a patentable departure from the prior art structure.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Masui in view of Loppnow et al.

Masui as interpreted above in paragraph 2 teaches everything except the specific folding of the top sheet.

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Loppnow et al teaches a manner of folding interfolded sheets for dispensing (see Figure 1) where the top sheet has a first end 38, which is folded upon itself at least twice (at 28 and 36).

It would have been obvious to one of ordinary skill in the art that the interfolded stack in the Masui dispenser be comprised of the stack taught by Loppnow et al which clearly illustrates at least one way sheets may be interfolded for dispensing. This is considered the substitution of one interfolded sheet stack for another.

5. Claims 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masui in view of Pierson et al.

Masui as interpreted above in paragraph 2 teaches everything except the dispensing container is in the shape of a square box and is made of paperboard. Pierson et al teaches such a dispensing box may be in the shape of a square box (cubical) and be made of paperboard (cardboard). See column 2 line 68 through column 3 line 1.

It would have been obvious to one of ordinary skill in the art to construct the box of the Masui dispenser in the shape of a square box (cubical) and of paperboard (cardboard) in light of the teachings of Pierson et al that such boxes can be so constructed.

6. Claims 14 through 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masui in view of McCarthy.

Masui as interpreted above in paragraph 2 teaches everything except the dispensing container is made of a polymer and the sheets dispensed comprising wet-wipes.

McCarthy teaches that such dispensing containers may be constructed of various materials including a polymer (plastic). See column 5 lines 10-17. It should be noted that McCarthy also teaches the sheets to be dispensed can be wet-wipes (see column 5 lines 4-9).

It would have been obvious to one of ordinary skill in the art to construct the container of Masui from a polymer and employ it to dispense wet-wipes as taught by McCarthy.

7. Claims 1 through 3, 5 through 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masui in view of Rockefeller (both cited by applicant).

Masui teaches a dispenser for dispensing sheets comprising: a dispensing container 1 housing a stack of disposable sheets arranged such that once a top sheet is withdrawn an underlying sheet is individually presented for subsequent use; the dispensing container including a removable panel 6 that when removed uncovers an opening, comprising a slit, for withdrawing the sheets, the removable panel being configured to be completely removed and separated from the dispensing container and being attached to the top sheet in the stack of sheets so that when the removable panel is removed and separated from the container the top sheet is pulled through the opening of the container. See Figures 1, 3 and 4. See also column 2 line 10 through column 3 line 12.

Masui fails to clearly teach the top sheet attached to the removable panel being detached from the removable panel when the top sheet is partially pulled through the opening. The fact the top sheet is only partially withdrawal and detached from the removable panel is merely an intended manner of use for the device and does not represent a patentable departure from the prior art structure. However, Rockefeller teaches the leading edge of a first sheet in a sheet dispensing container being attached to a removable panel 24 (see Figures 15 and 16) to pull out a length of the sheet so that it may be gripped (see column 5 lines 10-17). This implies the removable panel may not necessarily completely remove the entire first sheet. Accordingly, it would have been obvious to one of ordinary skill in the art to detach the removable panel in Masui from the first sheet and then grasp the first sheet for completely removing it from the container for use thereby avoiding the waste of disposing the unused first sheet because it remains attached to the removable panel. Further, Rockefeller teaches the sheet material dispensed may be wet-wipes (premoistened towelettes); therefore, it would have been obvious to one of ordinary skill in the art that the sheets of Masui may comprise wet-wipes.

8. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Masui in view of Rockefeller (both cited by applicant) as applied to claims 1 through 3, 5 through 10 and 12 above, and further in view of Loppnow et al.

Masui, as modified by Rockefeller, teaches everything except the specific folding of the top sheet.

Loppnow et al teaches a manner of folding interfolded sheets for dispensing (see Figure 1) where the top sheet has a first end 38, which is folded upon itself at least twice (at 28 and 36).

It would have been obvious to one of ordinary skill in the art that the interfolded stack in the Masui-Rockefeller dispenser be comprised of the stack taught by Loppnow et al which clearly illustrates at least one way sheets may be interfolded for dispensing. This is considered the substitution of one interfolded sheet stack for another.

9. Claims 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masui in view of Rockefeller (both cited by applicant) as applied to claims 1 through 3, 5 through 10 and 12 above, and further in view of Pierson et al.

Masui in view of Rockefeller teaches everything except the dispensing container is in the shape of a square box and is made of paperboard.

Pierson et al teaches such a dispensing box may be in the shape of a square box (cubical) and be made of paperboard (cardboard). See column 2 line 68 through column 3 line 1.

It would have been obvious to one of ordinary skill in the art to construct the box of the Masui-Rockefeller dispenser in the shape of a square box (cubical) and of paperboard (cardboard) in light of the teachings of Pierson et al that such boxes can be so constructed.

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10. Claims 14 through 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masui in view of Rockefeller (both cited by applicant) as applied to claims 1 through 3, 5 through 10 and 12 above, and further in view of McCarthy.

Masui in view of Rockefeller teaches everything except the dispensing container is made of a polymer.

McCarthy teaches that such dispensing containers may be constructed of various materials including a polymer (plastic). See column 5 lines 10-17. It should be noted that McCarthy also teaches the sheets to be dispensed can be wet-wipes (see column 5 lines 4-9).

It would have been obvious to one of ordinary skill in the art to construct the container of Masui as modified by Rockefeller from a polymer as taught by McCarthy.


11. Applicant's arguments filed 1 December 2005 have been fully considered but they are not persuasive. Applicant's arguments regarding the detachment of the sheet from the removable panel when the sheet is only partially withdrawn have been addressed in the above rejections.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David H. Bollinger whose telephone number is 571-272-6935. The examiner can normally be reached on Monday through Friday from 9:00 am to 5:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki, can be reached on 571-272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


David H Bollinger
Primary Examiner 3/14/06
Art Unit 3653